**UNITED NATIONS** **E**

**Economic and Social Council**

Distr.
GENERAL

E/CN.4/1996/162
18 April 1996

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-second session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 15 April 1996 from the Chairman of the Organization of the Islamic Conference Contact Group on Jammu and Kashmir addressed to the Chairman of the Commission on Human Rights

I have the honour to transmit to you herewith* the text of a declaration adopted by the Organization of the Islamic Conference Contact Group on Jammu and Kashmir at its meeting held at the United Nations Office at Geneva on 15 April 1996 as well as the text of a memorandum on human rights violations in Jammu and Kashmir. I should be grateful if Your Excellency could kindly have the enclosed declaration and the memorandum circulated as official documents of the fifty-second session of the Commission on Human Rights, under agenda item 10.

(Signed): El Hadj Mamadou Saliou Sylla
Chairman of the OIC Contact Group
on Jammu and Kashmir

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* The annexes are reproduced as received, in the language of submission only.

ANNEX 1

## DECLARATION BY THE OIC CONTACT GROUP ON JAMMU AND KASHMIR

In accordance with the mandate entrusted under para 19 of Resolution No. 7/23-P on the "Jammu and Kashmir Dispute" adopted by the Twenty-third Islamic Conference of Foreign Ministers held at Conakry in December 1995, the OIC Contact Group on Jammu and Kashmir met at the United Nations Office, Geneva on Monday, 15 April, 1996 to review the deteriorating situation in Jammu and Kashmir.

2. The meeting was presided over by the representative of Guinea and attended by the representatives of Morocco, Niger, Pakistan, Saudi Arabia, Turkey and the OIC Secretary General.

3. The true representatives of the Kashmiri people addressed the Contact Group on the continuing large-scale violations of human rights and other atrocities against the people of Jammu and Kashmir. The Kashmiri representatives also submitted a Memorandum on the "Jammu and Kashmir dispute".

4. The Contact Group expressed deep concern at the intensification of the repression in Jammu and Kashmir by the Indian forces as well as the brutal custodial murder of Jalil Andrabi, Chairman of Kashmir Commission of Jurists and massacre of innocent Kashmiris on 30 March 1996 in the vicinity of the Hazratbal shrine as well as attacks on the Kashmiri leaders representing the All Parties Hurriyat Conference.

5. The Contact Group, in pursuance of resolution 7/23-P on the "Jammu and Kashmir dispute" adopted by the Twenty-third Islamic Conference of Foreign Ministers, reaffirmed that any political process/elections held under foreign occupation cannot be a substitute to the exercise of the right of self-determination by people of Kashmir as is provided in the relevant Security Council resolutions and condemned the coercive measures to force the Kashmiri people to accept an election process which is in contravention of the UN Security Council resolutions.

6. The Contact Group reaffirmed the support which the OIC has declared in its resolutions for the struggle for self-determination of the Kashmiri people in accordance with UN Security Council resolutions and for safeguarding their fundamental rights on the basis of international legitimacy and called upon Member States of the OIC to persuade India to end the grave human rights violations being perpetrated against the Kashmiri people in Indian occupied Kashmir.

7. The Contact Group recalled the Special Declaration on "Jammu and Kashmir" adopted by the Seventh Islamic Summit Conference at Casablanca, Kingdom of Morocco in December, 1994 as well as the resolution on the "Jammu and Kashmir Dispute" adopted by the Twenty-third Islamic Conference of Foreign Ministers at Conakry, Republic of Guinea in December,1995 and urged the OIC Member States to promote respect for the fundamental rights of the people of Jammu and Kashmir, including their right to self-determination at the 52nd Session of the UN Commission on Human Rights.

8. The Contact Group discussed the proposal for a Ministerial meeting of the OIC Contact Group on Jammu and Kashmir in the near future to review the deteriorating situation in Jammu and Kashmir and requested the OIC Secretary General to conduct consultations for this purpose.

9. The Contact Group took note of the memorandum submitted by the true representatives of the Kashmiri people and authorized the Chairman of the Contact Group to address a communication to the Chairman of the 52nd Session of the Commission on Human Rights with the request that the declaration and the memorandum be circulated as official documents of the Commission on Human Rights, under agenda item 10.

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ANNEX 2

**Memorandum on the Jammu and Kashmir dispute by the true representatives of the Kashmiri people**

**presented to**

**The Organization of the Islamic Conference Contact Group on Jammu and Kashmir on 15 April 1996 in Geneva**

1. The true representatives of the people of Jammu and Kashmir, belonging to Indian-occupied Kashmir and Azad Jammu and Kashmir:

Recalling the Special Declaration on Jammu and Kashmir adopted by the Islamic Summit Conference at Casablanca;

Recalling the Memorandum (A/50/577) on the Jammu and Kashmir dispute presented by the true representatives of the Kashmiri people to the Ministerial Meeting of the Organization of the Islamic Conference (OIC) Contact Group on Jammu and Kashmir on 28 September 1995, and subsequently adopted at the Annual Coordination Meeting of the Ministers of Foreign Affairs of the OIC on 3 October 1995;

Recalling the resolution on "Jammu and Kashmir Dispute" adopted by the 23rd Islamic Conference of Foreign Ministers, held at Conakry, which took note of "the Memorandum submitted by the true representatives of Jammu and Kashmir, which inter alia, asserts that the people of Jammu and Kashmir will not accept the imposition of a fraudulent political process in Kashmir and that the so-called political process or elections could not be a substitute for a plebiscite as is affirmed in Security Council Resolutions No.91 (1951) and 122 (1957)", and affirmed "that any political process/elections held under foreign occupation cannot be a substitute to the exercise of the right of self-determination by people of Kashmir as is provided in the relevant Security Council resolutions";

Having extensively deliberated upon further deterioration in the situation in Indian-occupied Kashmir, which poses a grave threat to peace and security in the entire South Asian region, as well as the worsening situation of human rights in Indian-occupied Kashmir;

Agreed to draw the attention of the members of the OIC Ministerial Contact Group on Jammu and Kashmir to the following facts;

(1) The political and security situation in South Asia is deteriorating which could erupt into nuclear confrontation;

(2) In blatant violation of the Security Council resolutions, India has continued to occupy a major part of the territory of the State of Jammu and Kashmir since 1947. India has deployed around 700,000 troops in the disputed State of Jammu and Kashmir. The United Nations Security Council had decided that the question of the accession of the State of Jammu and Kashmir should be decided through an impartial and freely held plebiscite under the auspices of the United Nations;

(3) Kashmir is not a territorial dispute. This dispute is about the exercise of the fundamental right of self-determination. Indian intransigence has resulted in the continuing denial of the right to self-determination of the people of Jammu and Kashmir. This inalienable and irrevocable right had been promised to them by India, Pakistan and the United Nations through several resolutions of the Security Council. The fulfillment of this commitment is a binding obligation on these parties and on the international community;

(4) The fraudulent elections, held in 1989 in Indian occupied Kashmir, in which, according to the Indian sources, the turn-out was less than 3 per cent, as well as the new wave of self-determination sweeping across Euro-Asia in the wake of the end of the Cold War, encouraged the Kashmiris to intensify their struggle for their liberation from the Indian yoke and for the realization of their right to self-determination;

(5) Since 1989, India has been engaged in a campaign of repression against the Kashmiri people. Fifty-five thousand innocent Kashmiris have been killed, 33,000 wounded, 55,200 are missing and more than 20,400 have been disabled. During this period, thousands of Kashmiri women, between the ages of 7 and 80, have been raped and molested by members of the Indian occupation forces as a means to break the will of the Kashmiri people to resist the Indian occupation. Properties worth billions of dollars have been destroyed by the occupation forces, including through a policy of repeated acts of arson and collective reprisals against the Kashmiris;

(6) Reports of Amnesty International, Human Rights Watch, Physicians for Human Rights, the International Commission of Jurists, the British Parliamentary Human Rights Committee, the European Parliament, the Jammu and Kashmir High Court Bar Association and many other independent organizations have all attested to the continuing massive violations of human rights in Kashmir;

(7) The Indian Government has committed serious crimes against humanity through its military and paramilitary personnel, renegades and mercenaries in Jammu and Kashmir during the last seven years. These crimes include genocide, massacres, extrajudicial killings, reprisal killings, arbitrary detention, torture, use of rape as an instrument of suppression, burning of houses, villages and townships, and destruction and desecration of holy places;

(8) India has intensified its campaign of repression in Kashmir in recent months. A Kashmiri human rights activist, Jalil Andrabi, Advocate, Chairman of the Kashmir Commission of Jurists, was kidnapped by the Indian Rashtriya Rifles on 8 March 1996. His body was found dumped in the river Jhelum on 27 March 1996. He was killed in custody as punishment for his espousal of the cause of the right to self-determination of the people of Jammu and Kashmir at the international fora, including the Commission on Human Rights, and to give a warning to other political activists.

(9) We acknowledge the fact that Mr. Andrabi's death has been condemned by diverse international opinion, including the Secretary General of the OIC, Amnesty International, the U.S. State Department, Lord Avebury, Chairman of the Parliamentary Human Rights Group, and Asia Watch. Mr. Jose Ayala Lasso, the UN High Commissioner for Human Rights, has demanded an impartial inquiry into the murder of a peaceful human rights activist.

(10) As if the killing of Mr. Jalil Andrabi was not enough, Indian soldiers massacred over 30 Kashmiris, including women and children, on 30 March 1996, in the vicinity of the Hazratbal shrine. The action taken in the Hazratbal shrine area by the Special Task Force of Indian forces against the office of a political party is totally unjustified. It was a cold-blooded, criminal and ruthless attack on political workers, some of whom had already surrendered around 5.30 a.m. After their premises had been surrounded by para-military forces, others were not even allowed to surrender. Their office was blasted and set on fire. All Parties Hurriyat Conference joined the call for a four-day strike in the disputed territory in protest against this tragedy.

(11) Twenty-two worshippers were killed by Indian army fire in Forward Kahuta in February 1996. The Neelam Valley in Azad Jammu and Kashmir is blockaded because of constant shelling from the Indian side;

(12) The representatives of the Kashmiri people deeply resent the efforts by Indian agencies to defame the Kashmiri freedom movement through the perpetration of criminal and terrorist acts for which they invariably put the blame on freedom fighters. We are extremely concerned at the prolonged captivity of hostages by Indian-sponsored terrorists posing as Kashmiris in a transparent attempt to malign and subvert the Kashmir freedom struggle. In the context of this incident, several questions need to be posed to the Indian authorities:-

- How could the kidnappings occur in an area where the occupying forces were heavily concentrated?

- Why were they unable to locate the hideout of the abductors when they were able to pick up an American hostage, Mr. Childs, who "escaped" from captivity on 8 July 1995?

- Why did they fail to track down the origin of the messages from hostage-takers, over radio, telephone and fax, despite their modern equipment, on the strength of which the Indian intelligence agencies made a false claim of intercepting a fictitious signal from the Harkat-ul-Ansar to Al-Faran?

- How did the abductors succeed, without detection, in dropping the dead body of the Norwegian tourist in the same area from where the tourists had been kidnapped?

(13) The strong condemnation and rejection by All Parties Hurriyat (Freedom) Conference of the kidnappings of Western tourists and the total strikes in Jammu and Kashmir against this act of hostage-taking are a convincing and clear testimony of the abhorrence of such acts by the Kashmiri people;

(14) Despite over six years of massive and cruel repression of unarmed civilians by 700,000 Indian troops, and destruction of the economic means for productive employment, the Indian occupation has manifestly failed to crush the will of the people of Jammu and Kashmir to win their freedom;

(15) Indian attempts to disguise its inhuman war of repression in Kashmir have not been successful. India's claims of the so-called "transparency" are belied by the facts. Access to outside observers to Kashmir remains limited. Unacceptable conditions are imposed on foreign visitors. Nor has the farce of the so-called Indian Human Rights Commission served to cover up Indian crimes in Kashmir. The Commission has no authority to investigate the violations committed by the armed forces and the paramilitary forces. Amnesty International and other human rights organizations have been denied access to Jammu and Kashmir. The thematic rapporteurs of the Commission on Human Rights on torture and religious intolerance have not been invited to Jammu and Kashmir despite India's advertised promise. Even less credible is the so-called "political process" sponsored by India in Kashmir. Indian oppressors have not found, nor will they find, any genuine interlocutors among the true representatives of the Kashmiri people;

(16) The people of Jammu and Kashmir will not accept the imposition of a fraudulent political process in Kashmir. India has failed to crush the Kashmiri struggle despite seven years of massive and brutal repression. This struggle will continue until the Kashmiris realize their right to self-determination. The All Parties' Hurriyat (Freedom) Conference, representing 34 Kashmiri political parties, has rejected the so-called political process and has declared that any election held under the Indian occupation will not be acceptable to the people of Kashmir;

(17) The Security Council has clearly enunciated that, on the basis of the agreement concluded between India and Pakistan, "the final disposition of the state of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial

plebiscite conducted under the auspices of the United Nations";

(18) We, the representatives of the Kashmiri people, solemnly reiterate that our position regarding the final disposition of the State of Jammu and Kashmir will remain consistent with Security Council resolution 122 (1957) of 24 January 1957 which, in its paragraph 1 stated:

> "Reaffirms the affirmation in its resolution 91 (1951) and declares that the convening of a constituent assembly as recommended by the General Council of the 'All Jammu and Kashmir National Conference' and any action that Assembly may have taken or might attempt to take to determine the future shape and affiliation of the entire State or any part thereof, or action by the parties concerned in support of any such actin by the Assembly, would not constitute a disposition of the State in accordance with the above principle".

(19) The people of Jammu and Kashmir declare that no elections organized by the Indian Government in Jammu and Kashmir constitute a substitute for the plebiscite pledged by the United Nations to the people of Jammu and Kashmir. We strongly oppose the farce of fraudulent elections being imposed by the Indian Government on the people of Jammu and Kashmir and reject any elections held under Indian occupation;

(20) We are deeply concerned at the induction of additional troops, deployment of an elaborate and oppressive administrative apparatus by India and the massive campaign of repression, intimidation and persecution set in motion by the Indian army, to coerce and terrorize the people of Jammu and Kashmir into accepting and participating in the farce of the Indian sponsored elections in Kashmir;

(21) To subvert the Kashmiri resistance, and to create the "success" of these fraudulent elections, India is recruiting and training renegades and mercenaries to target segments of Kashmiri people, to criminalise them and use them to kill, harass, persecute and vandalize innocent people in Kashmir;

(22) The Indian Government has injected massive funds and arms into Jammu and Kashmir to encourage and equip these criminal elements to commit acts of terrorism against the people and political leadership of Jammu and Kashmir;

(23) As the Indian authorities seek to accelerate the process for the holding of fraudulent elections, the number of casualties and the instances of other human rights violations are bound to increase and multiply;

(24) India has used every oppressive method to silence the Kashmiri leaders who have won recognition of the world as "the true representatives of the Kashmiri people". Frustrated by the popularity of APHC and its recognition as the proponent of the inalienable right to self-determination of the Kashmiri people, the Indian security forces have

subjected them to intimidatory tactics, including attacks on the persons and properties of APHC leaders. All APHC leaders have faced personal or physical harassment or trumped up legal and financial charges;

(25) For the last one year, some of the most violent actions against the persons and properties of APHC leaders include an attack on Mr. Yasin Malik on the Eid Day, the end of Ramadan festival of Muslims all over the world, and the kidnapping of Mr. Abdul Ghani Lone last year. Mr. Lone's house was also raided. Most recently, he escaped a bomb attack. Mr. Ali Shah Gilani's house was hit by a powerful blast in October 1995 and again end December. His residence was raided by the Indian army and some of his political workers beaten up, followed by destruction of two houses in Sopore belonging to Syed Gilani's brothers. Mr. Shabir Ahmad Shah was attacked in Pampore and arrested twice in March. Mr. Shabir Shah escaped another assassination attempt on 8 March 1996. The house of Mir Waiz Umar Farooq, Chairman of the All Parties Hurriyat Conference, was attacked and ransacked by the Indian army on 9 March 1996. The political workers of APHC were beaten up. On April 11, two other APHC leaders, Mr. Abdul Ghani Lone and Syed Ali Shah Gilani, escaped attempts on their lives. Grenades exploded at the residences of the two leaders. Seven other people including a journalist and a human rights activist were killed by the Indian forces on the same day. After the explosions, the APHC leaders said that this was a conspiracy by the Indian Government "to eliminate the Hurriyat leadership";

(26) The military rule in Indian-occupied Kashmir has been perpetuated through the prolonged legislative imposition of "President's rule", i.e., direct political and military control by New Delhi. President's rule was once again "extended" on 19 January 1996. This further extension of Presidential rule will prolong the agony and suffering of the people of Kashmir. Yet, the answer to resolving the crisis in Kashmir lies neither in fake elections nor in arbitrary extensions of the Presidential rule, but in enabling the Kashmiris to exercise their right to self-determination;

(27) The suffering of the Kashmiri people is inadequately reported in the international media because of the restrictions imposed on the print and electronic media. BBC had declared IHK a war zone for its correspondents last year. CNN still stays away from Kashmir, for inexplicable reasons. In September 1995, an AFP stringer died in a bomb blast in Srinagar in his office and another journalist from BBC was seriously injured. In March 1996, a Kashmiri correspondent in Srinagar, Ghulam Nabi Khayal, was subjected to harassment and intimidation by agents of the Indian authorities. Mr. Ghulam Rasool Azad, Editor of *Rahmonia Kashmir*, was abducted by the Indian army on March 20. His body was found in river Jhelum on April 10, 1996. Indian agents control the content of the local publications;

(28) In view of the forgoing, the true representatives of the Kashmiri people reiterate the request they had made in September 1995 and urge the members of the OIC Contact Group

and, through them, the Human Rights Commission, the United Nations and the international community to prevail on India to accept the following:

(a) Withdraw its forces from the disputed State in accordance with the United Nations Security Council resolutions, and clear the obstacles in the way of holding a free and impartial plebiscite in Kashmir;

(b) Pending the total withdrawal of Indian forces and the holding of the plebiscite:

(i) Halt its repression of the civilian population in Kashmir;

(ii) Release all Kashmiris imprisoned in Jammu and Kashmir, as well as in India;

(iii) Ensure that the Indian security forces observe the norms of humanitarian law relating to armed conflicts and refrain from indulging in torture, custodial deaths, disappearances, arrests without warrants, and acts of humiliation against Kashmiri women;

(iv) Repeal urgently the emergency and other draconian laws or any substitutes thereof, which enable the Indian forces, agencies and authorities to violate human rights in Kashmir with impunity;

(v) Provide full and unrestricted access to Kashmir for all human rights organizations and relief agencies, including access to all imprisoned Kashmiris, political leaders and sites of reported massacres and violations of human rights;

(vi) Ensure provision of humanitarian assistance by the international humanitarian and relief agencies for those Kashmiris affected by Indian repression;

(vii) Urge India to allow an OIC fact-finding mission to Kashmir which should be able to objectively evaluate the situation on the ground.

(29) The true representatives of the Kashmiri people declare that:

(a) the people of Indian-held Kashmir will not participate in any elections held under Indian occupation;

(b) the people of Jammu and Kashmir shall continue the struggle for their freedom and the realization of their right to self-determination;

(c) the aspirations of the people of Jammu and Kashmir constitute the sole basis of the final disposition of the Jammu and Kashmir dispute;

(30) **The true representative of the Kashmiri people call on:**

(a) the Secretary-General of the Organization of the Islamic Conference to write to the United Nations Secretary-General to inform him about the grave security situation unfolding in Jammu and Kashmir, the sham of elections being organized by the Indian authorities in contravention of UN resolutions, and the new phase of repression unleashed by India in the name of elections;

(b) the Organization of the Islamic Conference to renew to the Government of India its offer of sending its fact finding and good offices missions to Jammu and Kashmir;

(c) request the UN Secretary General and the High Commissioner for Human rights to submit a report on the human rights violations in Jammu and Kashmir to the Commission of Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and the General Assembly on the basis of the information obtained from all the relevant sources particularly the Kashmiri victims of Indian atrocities;

(d) the United Nations to hold a plebiscite in Jammu and Kashmir, without further delay, in accordance with the U.N. Security Council resolutions;

(e) the U.N. Secretary General to initiate a process of mediation to pave the way for the holding of a plebiscite in Jammu and Kashmir as laid down by the United Nations Security Council;

(f) the United Nations Secretary General to remind India that the proposed elections in Jammu and Kashmir are in contravention of Resolutions 91 and 122 of the UN Security Council which have clearly affirmed that "any action that (the Indian Government) may have taken or might attempt to take to determine the future shape and affiliation (of Jammu and Kashmir) would not constitute a disposition of the state" in terms of these resolutions;

(g) the U.N. Secretary General to inform the Security Council that India has escalated its repression in Indian-held Kashmir in order to impose fraudulent elections on the people of Jammu and Kashmir and thus deceive the world about its illegal occupation of Jammu and Kashmir. Such escalation will exacerbate tension in Jammu and Kashmir and between India and Pakistan and could prove a threat to regional and international peace and security;

(h) the United Nations Security Council to ask India to withdraw its army of occupation from Jammu and Kashmir;

(i) the Commission on Human Rights to condemn the massive violations of human rights in Jammu and Kashmir and appoint a Special Rapporteur on Jammu and Kashmir;

(j) the Commission on Human Rights to declare the following leaders of the APHC, who are under constant threat from the Indian occupation forces and their collaborators, as internationally protected persons:

(i) Mir Waiz Maulvi Umar Farooq,
(ii) Professor Abdul Ghani,
(iii) Shabir Ahmad Shah,
(iv) Abdul Ghani Lone,
(v) Syed Ali Gilani,
(vi) Maulana Abbas Ansari,
(vii) Muhammad Yasin Malik,

(k) the High Commissioner for Human Rights to ask India to stop massive violations of human rights in Jammu and Kashmir, this time in the name of elections;

(l) the international community to put pressure on India to give full access to international human rights organizations to visit Jammu and Kashmir.

(31) The Kashmiris feel that the above measures are a prerequisite for the creation of a conducive climate for a peaceful resolution of the Kashmir dispute in accordance with the wishes and aspirations of the people.

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